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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,527	02/09/2004	Jeffrey L. Robbin	101-P271/P3060US1	1033

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EXAMINER	
POLLOCK, GREGORY A	
ART UNIT	PAPER NUMBER
3695	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/775,527	ROBBIN, JEFFREY L.	
	Examiner	Art Unit	
	GREG POLLOCK	3695	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 March 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,5,6,9,11-16,19 and 22-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3, 5, 6, 9, 11-16, 19 and 22-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to claims filed 03/29/2010 and Applicant's request for reconsideration of application 10/775527 filed 03/29/2010.

The amendment contains original claims 2, 5, 6, 12, and 14-16.

The amendment contains previously presented claims 1, 3, 9, 11, 13, 19, 23, and 24.

The amendment contains amended claim 22.

Claims 4, 7, 8, 10, 17, 18, 20, and 21 have been canceled.

As such, claims 1-3, 5, 6, 9, 11-16, 19 and 22-24 have been examined with this office action.

Priority

2. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e) as follows:

The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed application, Application No. 60465410, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. The content of claims 1-24 were not disclosed in the provisional Application No. 60465410.

a. As to claims 1, 11, and 23 there is no support in a prior-filed application for the limits "priority levels associated with the different media-based actions" or "a task manager that manages performance of at least browse, preview, purchase or download operations by assigning priority levels to each of the browse, preview, purchase or download operations, and managing performance of the browse, preview, purchase or download operations in accordance with the assigned priority levels".

b. As to claims 2 – 10, 12-22, and 24 these are dependent claims to independent claims 1, 11, or 23 and, therefore, are also unsupported by the prior-filed application.

Accordingly, claims 1-3, 5, 6, 9, 11-16, 19, and 21-24 are not entitled to the benefit of the prior application.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claim 22** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 22 claims the limit "a computer readable medium as recited in claim 11, wherein said computer program code for receiving and said computer program code for coordinating interaction with an operating system program that operates on the computer." The claim limit is not complete English sentence and is therefore indefinite. Speculation as to the meaning of the claim limit is not reasonably possible. For the purposes of compact, the examiner interprets that claim 22 should have been canceled when the applicant changed claimed embodiments of the invention (i.e. the application claimed the task manager as part of the client media player application program running at the application level as opposed to the previously claimed task manager running at the operating level). However, for completeness, the examiner will apply prior art to claim 22. To correct this deficiency, claim 22 should be cancelled when responding to this office action or written to accurately convey the intent of the claim limit.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-3, 5, 6, 9, 11-16, 19 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Santoro (PGPub Document No. 20030020671) in view of Homer (PGPub Document No. 20020042730).

As to claims 1, 5, 11, 15, and 23 : Santoro teaches a **method of managing tasks** ([¶19]) **performed within a single client media player application program** (graphical user interface application program [¶64]) **stored on a computer readable medium** ([¶20-21]) **and running at the application level** (application program [¶23]) **on a computer coupled** ([¶23, lines 1-3]) **over a network to a network-based media server** ([Figures 24-27]), **said method comprising:**

receiving, via a task manager computer program implemented within the single client media player application program (URL loader [Figure 15, element 1510] [¶129-132] URL Layer [Figure 22, element 2205] [¶160] [¶166-168] [¶173-177]), **tasks to be performed from the single client media player application program** (tiles within the GUI interface [Figure 4] [¶77-80]), **the tasks pertaining to one or more different media-based actions** (the invention presents video clips, e-mail messages, television shows, Internet sites, application programs, data files and folders, live video streams, music, radio shows, and any other form of analog signal, digital data or electronically stored information, to the user uniformly [¶19] text and graphics [¶54]), **and the tasks involving interaction of the client media player application program with the media server over the network** ([Figures 24-27] [¶155]]);

activating, via the task manager computer program, an operation at the client media player application program in response to each of the tasks ([¶78]); **and**

coordinating, via the task manager computer program, performance of the activated operations at the client media player application program in accordance with priority levels associated with the different media-based actions of the tasks ([¶64] [¶68] [¶85-92] [¶100-104]), **each of the different media-based actions having a different intra-application priority level** ([¶85]), **the priority levels of the different media-based actions being user-modifiable based on user interaction with the client media player application program** ([¶21, lines 16-21] [¶64] [¶89] [¶101] [¶112] [¶166]). Santoro further teaches that its the invention allows for browsing (web browser [¶88] [¶107] [¶123] [claim 21]) and downloading ([¶156-157]) of any other form of analog signal, digital data or electronically stored information to the user uniformly [¶19] text and graphics [¶54] and strongly implies previewing and purchasing (see at least [¶53]) content that is media based (video, audio, text,

and graphics [¶54]). However, **a method wherein the different media-based actions include at least: previewing media, browsing media, purchasing media, and downloading media** are not explicitly stated within Santoro.

Homer teaches previewing media ("play preview" [pg. 7, para. 63, line 14]), browsing media (uses a catalog to browse media [pg. 7, para. 63, line 11]), purchase media (the system can "set up customer accounts, process payments from customers for establishing file access authorizations, and enables transmission user-selected files to customers" [pg. 1, para. 10, lines 7-10] and download media [referring to Figure 1, "the customer selects items from the catalog 35 to be downloaded over the computer network 14 to the mass storage device 40 of the customer computer 16" [pg. 3, para. 35, lines 23-25]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the invention of Homer with that of Nieh et. al. to achieve the claimed invention. The media of Homer are a form of analog signal, digital data or electronically stored information which can be transmitted over the internet as taught by Santoro. One skilled in the art would be motivated to combine the inventions because Homer provides a system which is easy to use in that it eliminates physical delivery of media and/or keys for downloading media, is less expensive to manage in that it does not require particular works to be metered separately, and do no require undesirable compromises between the number of available works and the cost of obtaining access.

As per claim 2, the rejection of claim 1 has been addressed.
Santoro further teaches **a method wherein the priority levels are provided on a per-computer basis** (priorities can be assigned automatically by the application program [¶21, lines 16-21] [¶64-68] [¶85] [¶87-90]) **or a per-user basis.** (the graphical user interface can allow the user to control priorities [¶21, lines 16-21] [¶64] [¶89] [¶101] [¶112] [¶166]))

As per claim 3, the rejection of claim 1 has been addressed.
Santoro further teaches **wherein said coordinating coordinates the execution of the activated operations pertaining to a particular user of the computer based on the priority levels tasks** ([¶64] [¶68] [¶85-92] [¶100-104]).

As per claim 6, the rejection of claim 5 has been addressed.
Santoro teaches **a method wherein the media includes at least one of audio, video or images** (the invention presents video clips, e-mail messages, television shows, Internet sites, application programs, data files and folders, live video streams, music, radio shows, and any other form of analog signal, digital data or electronically stored information, to the user uniformly [¶19] text and graphics [¶54]).

As per claim 9, the rejection of claim 1 has been addressed.
All of the remaining limits of Claim 9 have been previously addressed in Claims 1, 5, and 6, and is therefore rejected using the same prior art and rationale.

As per claim 11, Nieh et. al. teaches **a computer readable medium including at least at least executable computer program code tangibly stored thereon for managing tasks performed on a computer** ([¶20-21] [¶23])

All of the remaining limits of Claim 11 have been previously addressed in Claim 1, and is therefore rejected using the same prior art and rationale.

As per claim 12, the rejection of claim 11 has been addressed.
All of the limits of Claim 12 have been previously addressed in Claim 2, and is therefore rejected using the same prior art and rationale.

As per claim 13, the rejection of claim 11 has been addressed.
All of the limits of Claim 13 have been previously addressed in Claim 3, and is therefore rejected using the same prior art and rationale.

As per claim 14, the rejection of claim 11 has been addressed.
All of the limits of Claim 14 have been previously addressed in Claim 1, and is therefore rejected using the same prior art and rationale.

As per claim 16, the rejection of claim 15 has been addressed.
All of the limits of Claim 16 have been previously addressed in Claim 6, and is therefore rejected using the same prior art and rationale.

As per claim 19, the rejection of claim 11 has been addressed.
All of the limits of Claim 19 have been previously addressed in Claim 9, and is therefore rejected using the same prior art and rationale.

7. Claims 22 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Santoro (PGPub Document No. 20030020671) in view of Homer (PGPub Document No. 20020042730) in further view of Nieh et al. (Jason Nieh and Monica S. Lam, “The Design, Implementation and Evaluation of SMART: A Scheduler for Multimedia Applications”, appearing in “Proceedings of the

Sixteenth ACM Symposium on Operating Systems Principles", St. Malo, France, October, 1997).

As per claim 22 and 24, the rejection of claim 11 has been addressed. Santoro does not teach **a computer readable medium wherein said computer program code for receiving and said computer program code for coordinating interaction with an operating system program that operates on the computer** and **wherein each of the browse, preview, purchase and download operations are executed by different processing threads.**

Nieh et. al. teaches **a computer readable medium wherein said computer program code for receiving and said computer program code for coordinating interaction with an operating system program that operates on the computer** (the SMART scheduling algorithm was implemented in the Solaris UNIX operating system [see pg. 1, para. 4, lines 3-4]) and **wherein each of the browse, preview, purchase and download operations are executed by different processing threads** (threads [pg. 8, para. 14] and [pg. 9, para. 5])**.**

It would have been obvious to one skilled in the art at the time of the invention to have combined the invention of Nieh et. al. with that of Santoro to achieve the claimed invention. The purpose of such a combination would be to provide more flexible, predictable controls within the GUI interface which allows users to more easily bias the allocation of priority of resources according to their preferences, thus increasing user satisfaction.

Response to Arguments

8. Applicant's arguments with regards to claims 1-3, 5, 6, 9, 11-16, 19 and 22-24, filed 03/29/2010 have been fully considered but they are not persuasive.

9. APPLICANT REMARKS CONCERNING Claim Rejections - 35 USC § 112 (page 7): The applicant contends that Claim 22 has been amended to obviate the Examiner's concerns and render the rejection under 35 U.S.C. §112, second paragraph, moot.

10. EXAMINER'S RESPONSE: The Examiner respectfully disagrees with Applicant's arguments. As stated in the Claim Rejections - 35 USC § 112 section of this office action, Claim 22 as amended is not a complete English sentence and is therefore indefinite. See the Claim Rejections - 35 USC § 112 section for details for this rejection.

11. APPLICANT ARGUES CONCERNING Prior Art (pages 8): Applicants have argued that while Santoro et al. provides priorities for tiles in its grid, its priorities are amongst its tiles. Refresh priorities for tiles of a graphical user interface organized as a grid are not different intra-application priority levels for different media-based actions supported by a client media player application program. The rejection in the Office Action is premised on the URL loader 1510 Santoro et al. corresponding to the client media player application program recited in claim 1. However, the URL loader 1510 cannot correspond to the client media player application program of claim 1. According to para. [0119] of Santoro et al. the "URL loader 1510 decides whether content should be obtained afresh by contacting the connection manager 1512, or from content previously stored in cache." The URL loader 1510 is thus not an application program. Nor does the URL loader 1510 have different media-based actions that can be assigned different intra-application priority levels.

12. EXAMINER'S RESPONSE: The Examiner respectfully disagrees with Applicant's arguments. The URL loader as taught in Santoro performs the task of retrieving

tile content according to respective priorities [¶160]. As such, the URL loader as taught in Santoro performs the same function as the applicant's task manager. As the applicant acknowledges, Santoro et al. provides priorities for tiles in its grid, its priorities are amongst its tile. The examiner further adds that the tiles are all contained within one application, thus satisfying the claim limits requiring intra-application priority levels. Further still, the examiner has identified examples of tiles containing different media-based actions (audio, video, and graphic) are contained throughout Santoro et al. In [¶70] of Santoro et al., it is disclosed that "A tile presents content form any information source" and in [¶73] it is disclosed that "Tiles permit "dynamic bookmarking" of information in that each tile is a viewer of a single information source--including streaming data sources" (audio and video being streaming data). [¶77] [¶80] [¶85] of Santoro et al. also give examples of audio and/or video tiles. Figure 7 and the accompanying disclosure found in [¶87-94] clearly show that tile 702 is connected to a web-page viewer 712 such as a browser, Tile 704 is connected to a source of streaming video 714, such as Real Player, Tile 706 is connected to an audio player 716 such as a CD-player program or a source of streaming audio such as Real Audio. The URL loader is not part of the operating system (see Figure 15). As such, the examiner contends that it is an application program.

13. APPLICANT REMARKS CONCERNING Prior Art (pages 8-9): The applicant contends that the priority levels recited in claim 1 are for different media-based

actions and are user-modifiable. More particularly, claim 1 recites "the priority levels of the different media-based actions being user-modifiable based on user interaction with the client media player application program." On page 6 of the Office Action, the Examiner makes reference to paragraphs [0021], [0064], [0089], [0101], [0112], [0166]. However, these referenced paragraphs are, at best, concerned with refresh or retrieval rates for tiles. As such, these refresh or retrieval rates in Santoro et al. are not for "different media-based actions" that are assigned different priority levels based on user interaction with a client media player application program.

14. EXAMINER'S RESPONSE: The Examiner respectfully disagrees with Applicant's arguments. As pointed out in the Prior Art rejection found in this office action, Santoro discloses that priorities can be assigned automatically by the application program [¶21, lines 16-21] [¶64-68] [¶85] [¶87-90]) or can allow the user to control priorities [¶21, lines 16-21] [¶64] [¶89] [¶101] [¶112] [¶166])) ([¶21, lines 16-21] [¶64] [¶89] [¶101] [¶112] [¶166]). Therefore, the examiner contends that each tile is a different media-based action which has a user-modifiable priority.

15. Therefore, in view of the above reasons, Examiner maintains rejections.

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP §

706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pollock whose telephone number is 571 270-1465. The examiner can normally be reached on 7:30 AM - 4 PM, Mon-Fri Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chuck Kyle can be reached on 571 272-5233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GAP

06/01/2010

/Gregory Pollock/
Examiner, Art Unit 3695

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